REMARKS/ARGUMENTS

Claims 1 to 22 are presently pending in this patent application. Applicants reserve the right to pursue subject matter that remains after the prosecution of the present application in a future continuing patent application, for example, a division.

Discussion of the Restriction Requirement and Provisional Election

The Action requires applicants to select one of the following four groups of allegedly patentably distinct inventions for examination.

I. Claims 1 to 13, drawn to liquid oral dosage formulations;

II. Claims 21 to 22, drawn to methods of treatment;

III. Claims 14 to 18, drawn to methods for preparing a liquid oral dosage formulation; and

IV. Claims 19 to 20, drawn to methods of treating a liquid oral dosage formulation.

Although applicants submit respectfully that the Requirement is improper, applicants elect provisionally the claims of Group I. Because the elected Group I claims are directed to a product and the non-elected Group III claims are directed to a process of preparing such a product, applicants request rejoinder the claims of non-elected Group II in accordance with MPEP § 821.04 if the claims of elected Group I are allowed.

The Action includes also a request that applicants elect a species of antifoaming agent and a species of preservative. Applicants respectfully submit that the antifoaming agent and the preservative are optional ingredients of the liquid oral dosage formulation of claim 1 subject to election. As such, applicants do not elect the presence of an antifoaming agent or a preservative. To comply with the Requirement, however, applicants elect simethicone as the antifoaming agent and a mixture of propyl paraben and methyl paraben as the preservative.

Claims 1 to 10 are generic to at least one of the elected species. Applicants acknowledge that upon the allowance of a generic claim, applicants will be entitled to consideration of claims to additional species which are written in dependant form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141.

Applicants request respectfully reconsideration and withdrawal of the Requirement. PCT Rule 13.1 states clearly that restriction is not required unless the inventions lack unity with regard to the common technical feature which is patentable over the prior art. Applicants submit respectfully that the common technical feature of the present invention has been mischaracterized by the Action and that, in view of applicants' understanding of the common technical feature, the inventions presented in Groups I, II, III and IV, while distinct, do not lack unity and thus should not be subject to restriction.

The common technical feature of the present inventions is a liquid oral dosage formulation of 5-methyl-2-2'(chloro-6'-fluoroanilino) phenylacetic acid. As detailed above,

antifoaming agents and preservatives are not in fact part of the common technical feature of the present application. Applicants submit respectfully that the Action fails to provide any evidence that such common technical feature is not patentable over the prior art and thus has not demonstrated any lack of unity within the present inventions. As the inventions presented in Groups I, II, III and IV do not lack unity, a search and examination of all of the presently pending claims is requested respectfully.

Conclusion

Applicants believe that the foregoing constitutes a complete and full response to the Action of record. If there are any issues that can be resolved by a telephone conference, the Examiner is invited to call the undersigned attorney.

The Commissioner is hereby authorized to charge any fees required to Deposit Account No. **19-0134** in the name of Novartis.

Respectfully submitted,

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Date: January 20, 2008